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1 CATHERINE A. CONWAY (SBN 98366)
2 GREGORY W. KNOPP (SBN 237615)
3 **AKIN GUMP STRAUSS HAUER & FELD LLP**
4 2029 Century Park East, Suite 2400
5 Los Angeles, California 90067-3012
6 Telephone: 310-229-1000
7 Facsimile: 310-229-1001
8 cconway@akingump.com
9 gknopp@akingump.com

10 Attorneys for Defendant ERNST & YOUNG LLP

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 MICHELLE RICHARDS, on behalf
15 of herself and all others similarly
16 situated and on behalf of the general
17 public, and DOES # 1-20,

18 Plaintiffs,

19 v.

20 ERNST & YOUNG LLP and DOES
21 # 1-50,

22 Defendants.

Case No. C 05 04867-RMW (HRL)

[Assigned for all purposes to the
Honorable Ronald M. Whyte]

NOTICE OF APPEAL

FILED
OCT 19 2 08
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BY FAX

Q

1 NOTICE IS HEREBY GIVEN that defendant Ernst & Young LLP ("Ernst &
2 Young") appeals to the United States Court of Appeals for the Ninth Circuit from this
3 Court's September 20, 2011 Order to the extent it denies Ernst & Young's motion for an
4 order compelling arbitration of plaintiff Michelle Richards' claims and staying court
5 proceedings pending the outcome of that arbitration.

6 Ernst & Young has separately sought leave under Fed. R. Civ. P. 23(f) to appeal
7 the portion of the Order granting in part and denying in part Plaintiffs' motion for class
8 certification. That petition is pending in the Ninth Circuit, Case Number 11-80263.

9
10 Dated: October 19, 2011

AKIN GUMP STRAUSS HAUER & FELD
LLP

By 

Gregory W. Knopp
Attorneys for ERNST & YOUNG LLP

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On October 19, 2011, I served the foregoing document(s) described as: **NOTICE OF APPEAL** on the interested party(ies) below, using the following means:

Mark R. Thierman, Esq.
 Leon Greenberg, Esq.
 Thierman Law Firm
 2965 South Jones Boulevard, Suite E-4
 Las Vegas, NV 89146

H. Tim Hoffman, Esq.
 Arthur W. Lazear, Esq.
 Ross L. Libenson, Esq.
 Hoffman & Lazear
 180 Grand Avenue, Suite 1550
 Oakland, CA 94612

Max Folkenflik
 Folkenflik & McGerity
 1500 Broadway, 21st Floor
 New York, NY 10036

☐ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Los Angeles, California.

☒ BY OVERNIGHT DELIVERY I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 19, 2011, at Los Angeles, California.

Yvonne Shawver

[Print Name of Person Executing Proof]

[Signature]